

PSJ9 Exh 33

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

May 8, 2013

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, OH 44312-5812

RE: 13-CRF-008

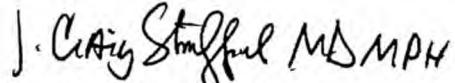
Dear Dr. Heim:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on May 8, 2013.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal must be taken to the Franklin County Court of Common Pleas.

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

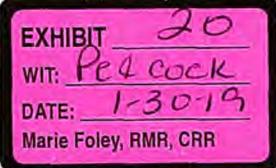
Very truly yours,



J. Craig Strafford, M.D., M.P.H.
Secretary

JCS:baj
Enclosures

CERTIFIED MAIL NO. 91 7199 9991 7032 2902 6782
RETURN RECEIPT REQUESTED

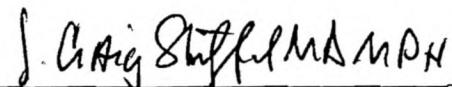


Mailed 5-9-13

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry approved by the State Medical Board, meeting in regular session on May 8, 2013, constitutes a true and complete copy of the Findings, Order and Journal Entry in the Matter of Brian D. Heim, M.D., Case Number 13-CRF-008, as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.



J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

May 8, 2013
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF *

* CASE NO. 13-CRF-008

BRIAN D. HEIM, M.D. *

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated February 13, 2013, notice was given to Brian D. Heim, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in the State of Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the address of record of Dr. Heim, that being 2901 Ironwood Drive, Akron, Ohio 44312-5812.

Subsequently, the notice was returned to the Board with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the notice was unclaimed. In accordance with Section 119.07, Ohio Revised Code, the notice was mailed via regular U.S. mail on February 21, 2013, and a certificate of mailing was obtained. No hearing request has been received from Dr. Heim and more than thirty (30) days have now elapsed since the mailing of the notice on February 21, 2013.

WHEREFORE, having reviewed the February 13, 2013, Notice of Opportunity for Hearing, the affidavit of Kay L. Rieve, Administrative Officer, the affidavit of Barbara A. Jacobs, Senior Executive Staff Attorney, and the affidavit of Cheryl D. Pokorny, Enforcement Attorney, which are attached hereto and incorporated herein, the Board hereby finds that:

1. On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, Brian D. Heim, M.D., pled guilty to and was convicted on one amended count of Obstructing Official Business, a misdemeanor of the first degree.
2. As part of his criminal sentence, Dr. Heim was ordered to surrender his Drug Enforcement Administration Certificate of Registration and his Ohio Board of Pharmacy license.
3. On or about December 7, 2012, Dr. Heim voluntarily surrendered his Drug Enforcement Administration Certificate to Prescribe and consented to revocation of the same.

In the Matter of Brian D. Heim, M.D.
Page 2

4. On or about February 13, 2013, the Board issued a Notice of Opportunity for Hearing to Dr. Heim. Such Notice was mailed via certified mail, return receipt requested, to Dr. Heim's address of record on February 14, 2013.
5. Subsequently, on February 21, 2013, the Board received the notice in return mail with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the notice was unclaimed.
6. Pursuant to Section 119.07, the Board sent the notice via regular U.S. mail to Dr. Heim on February 21, 2013, and a certificate of mailing was obtained. The notice was not returned to the Board.
7. Further, pursuant to Section 119.07, Ohio Revised Code, Dr. Heim had thirty days from the date of mailing of the Notice of Opportunity for Hearing in which to submit a written hearing request to the Board.
8. The thirtieth and final day upon which Dr. Heim could submit a hearing request to the Board was Monday, March 25, 2013.
9. No hearing request has been received from Dr. Heim and more than thirty days have elapsed since the mailing of the Notice of Opportunity for Hearing via regular U.S. mail.

Further, the Board hereby concludes that:

1. Section 4731.22(B)(11), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice.
2. Section 4731.22(B)(13), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude.
3. Section 4731.22(B)(24), Ohio Revised Code, authorizes the State Medical Board of Ohio to refuse to issue a license or to discipline a licensee following the revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States Department of Defense or Department of Veterans Affairs or the termination or suspension of a certificate of registration to prescribe drugs by the Drug Enforcement Administration of the United States Department of Justice.

In the Matter of Brian D. Heim, M.D.
Page 3

4. Dr. Heim has been convicted on one amended count of Obstructing Official Business, a misdemeanor of the first degree, as described above.
5. Dr. Heim has voluntarily surrendered his Drug Enforcement Administration Certificate to Prescribe and consented to revocation of the same, as described above.
6. Section 119.07, Ohio Revised Code, requires the State Medical Board of Ohio to grant an administrative hearing if such hearing is requested within thirty days of the mailing of the Notice of Opportunity for Hearing.
7. Section 4731.22(J), Ohio Revised Code, authorizes the State Medical Board of Ohio to enter a final order that contains the Board's findings without an administrative hearing if the individual subject to a Notice of Opportunity for Hearing does not timely request a hearing in accordance with Section 119.07.
8. As stated above, Dr. Heim failed to timely submit a request for hearing prior to the thirtieth day from the mailing of the Notice of Opportunity for Hearing via regular U.S. mail on February 21, 2013.

Accordingly, the Board hereby ORDERS that:

The certificate of Brian D. Heim, M.D., to practice medicine and surgery in the State of Ohio be REVOKED.

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 8th day of May 2013 and the original thereof shall be kept with said Journal.



J. Craig Strafford, M.D., M.P.H.
Secretary

(SEAL)

May 8, 2013
Date

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Kay L. Rieve, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) I serve the Board in the position of Administrative Officer.
- 3) In such position I am the responsible custodian of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) I have this day carefully examined the records of the Board pertaining to Brian D. Heim, M.D.
- 5) Based on my examination, I have found the address of record of Dr. Heim to be:

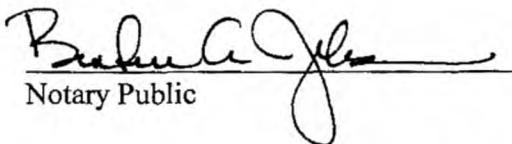
2901 Ironwood Drive
Akron, Ohio 44312-5812

- 6) Further, Affiant Sayeth Naught.



Kay L. Rieve
Administrative Officer

Sworn to and signed before me, Barbara A. Jacobs, Notary Public, this 15th day of April, 2013.


Notary Public

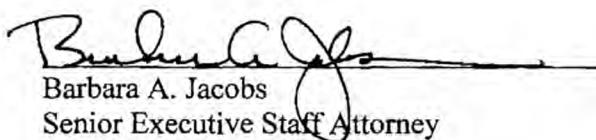
BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Barbara A. Jacobs, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

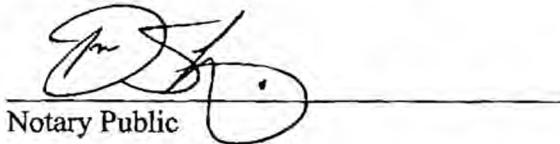
- 1) I am employed by the State Medical Board of Ohio (hereinafter, "The Board").
- 2) I serve the Board in the position of Senior Executive Staff Attorney.
- 3) In the course of my regular duties, I am responsible for seeing that all procedural requirements of Chapter 119., Ohio Revised Code, regarding service of any notice issued by the Board are met.
- 4) According to the Board's records, the Board issued a Notice of Opportunity for Hearing to Brian D. Heim, M.D., on February 13, 2013. Such notice was mailed by certified mail, return receipt requested, to Dr. Heim's address of record.
- 5) Subsequently, on February 21, 2013, the Board received the notice sent in return mail with a notation from the United States Postal Service that delivery was attempted on February 16, 2013; however, the item was unclaimed.
- 6) In accordance with Section 119.07, Ohio Revised Code, the Notice was mailed by regular U.S. Mail to Dr. Heim's address of record on February 21, 2013, and a certificate of mailing was obtained. The mailing has not been returned to the Board offices.
- 7) The thirtieth and final day upon which Dr. Heim could submit a written hearing request was Monday, March 25, 2013.
- 8) As of the date of this affidavit, the Board has not received a request for hearing from Dr. Heim.
- 9) Further, Affiant Sayeth Naught.


Barbara A. Jacobs
Senior Executive Staff Attorney

Sworn to and signed before me, Daniel S. Zinssmaster, Notary Public, this 15th day of April, 2013.



DANIEL S. ZINSSMASTER, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.


Daniel S. Zinssmaster
Notary Public

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934
med.ohio.gov

February 13, 2013

Case number: 13-CRF- 008

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, Ohio 44312

Dear Doctor Heim:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, you pled guilty to an amended charge of Obstructing Official Business, a misdemeanor of the first degree. Your plea was accepted by the Court and you were found guilty of the offense. On or about December 17, 2012, you were sentenced to five months of imprisonment, all of which were suspended. You were placed on non-reporting probation for one year, and you were ordered to surrender your DEA license and your Ohio Board of Pharmacy license.
- (2) On or about December 7, 2012, you voluntarily surrendered your Drug Enforcement Administration Certificate of Registration [DEA License]. In that same document, you consented to the revocation of your DEA License by the DEA Administrator.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice,” as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding

Certificate of Mailing 1-21-13
mailed 2-14-13

To protect and enhance the health and safety of the public through effective medical regulation



Brian D. Heim, M.D.
Page 2

of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (2) above constitute "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

J. Craig Strafford MD MPH
J. Craig Strafford, M.D., M.P.H.
Secretary

Brian D. Heim, M.D.
Page 3

JCS/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2767 9806
RETURN RECEIPT REQUESTED

CC: Michael J. Maillis
Perantinides & Nolan Co., L.P.A.
300 Courtyard Square
80 South Summit Street
Akron, Ohio 44308-1736

CERTIFIED MAIL #91 7199 9991 7031 2767 9813
RETURN RECEIPT REQUESTED

CERTIFIED MAIL

State Medical Board Of Ohio
30 E. Broad St.
3rd Floor
Columbus, OH 43215-6127



91 7199 9991 7031 2767 9806



UNCLAIMED



44312 HEIM CITE CDP
Signature Required

MEDICAL BOARD

FEB 21 2013

Brian D. Heim, M.D.
2904 Ironwood Drive
Akron, Ohio 44312

UNCLAIMED



UNITED STATES
POSTAL SERVICE®

Certificate Of Mailing STA

This Certificate of Mailing provides evidence that mail has been presented to USPS for mailing.
This form may be used for domestic and international mail.

From:

STATE MEDICAL BOARD OF OHIO
30 E. BROAD ST., 3RD FLOOR
COLUMBUS, OH 43215-6127

To:

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, OH 44312

PS Form 3817, April 2007 PSN 7530-02-000-9065

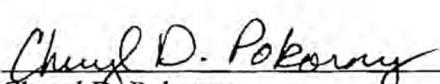


AFFIDAVIT

The State of Ohio
Franklin County, SS

I, Cheryl D. Pokorny, being duly cautioned and sworn, do hereby depose and state that the following is true based upon my first-hand knowledge:

- 1) I am employed by the State Medical Board of Ohio (hereinafter, "Board").
- 2) I serve the Board in the position of Enforcement Attorney.
- 3) In the course of my regular duties, I am responsible for coordinating the investigation of complaints against applicants and licensees under the jurisdiction of the Board and assembling the evidence necessary to prove potential violations of the Medical Practices Act of Ohio, Chapters 4730., 4731., 4760., and 4762., Ohio Revised Code.
- 4) I coordinated the investigation of the complaints filed against Brian D. Heim, M.D., which resulted in the issuance of a Notice of Opportunity for Hearing by the Board on February 13, 2013.
- 5) As part of the Board's investigation of Dr. Heim, I obtained certified copies of the Indictment and Journal Entries in Case No. 2012-05-1313 in the matter of the State of Ohio vs. Brian D. Heim. Attached hereto and incorporated herein as Exhibit 1 are certified copies of the Indictment and Journal Entries.
- 6) Further, as part of the Board's investigation of Dr. Heim, I obtained a certified copy of the Voluntary Surrender of Controlled Substances Privileges executed by Dr. Heim on or about December 7, 2012. Attached hereto and incorporated herein as Exhibit 2 is a certified copy of the Voluntary Surrender of Controlled Substances Privileges.
- 7) Further, Affiant Sayeth Naught.


Cheryl D. Pokorny

Cheryl D. Pokorny
Enforcement Attorney

Sworn to and signed before me, Barbara A. Jacobs, Notary
Public, this 15th day of April, 2013.

BARBARA ANN JACOBS, ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.


Barbara A. Jacobs
Notary Public

COPY

DANIEL M. HORRIGAN

2012 MAY 18 PM 3:10

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO

SUMMIT COUNTY
CLERK OF COURTS

INDICTMENT TYPE: DIRECT

CASE NO. 2012-05-1313 ²

INDICTMENT FOR: AGGRAVATED TRAFFICKING IN DRUGS (3) 2925.03(A)(C)(1) F3;
AGGRAVATED TRAFFICKING IN DRUGS (5) 2925.03(A)(C)(1) F4; TAMPERING WITH
EVIDENCE (1) 2921.12(A)(1) F3

In the Common Pleas Court of Summit County, Ohio, of the term of MAY in the year of our Lord, Two Thousand and Twelve,

The Jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, being duly impaneled and sworn and charged to inquire of and present all offenses whatever committed within the limits of said County, on their oaths, IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OHIO,

COUNT ONE

DO FIND AND PRESENT That **BRIAN D. HEIM** on or about the 19th day of June, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT TWO

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 15th day of January, 2009, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

EXHIBIT

COPY

2012-05-1313
Page Two of Four

COUNT THREE

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 14th day of September, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT FOUR

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 24th day of March, 2008, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT FIVE

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 20th day of August, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE FOURTH DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COPY

2012-05-1313
Page Three of Four

COUNT SIX

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 20th day of April, 2007, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in an amount that equals or exceeds one but is less than five times the bulk amount, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COUNT SEVEN

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 22nd day of May, 2008, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **AGGRAVATED TRAFFICKING IN DRUGS** in that he did knowingly sell or offer to sell a drug, dextro-amphetamine (adderall xr) a schedule II controlled substance, in an amount that equals or exceeds one but is less than five times the bulk amount, in violation of Section 2925.03(A)(C)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

COPY

2012-05-1313
Page Four of Four

COUNT NINE

And the Grand Jurors of the State of Ohio, within and for the body of the County of Summit aforesaid, on their oaths in the name and by the authority of the State of Ohio, DO FURTHER FIND AND PRESENT, that **BRIAN D. HEIM**, on or about the 24th day of March, 2010 through the 13th day of September, 2011, in the County of Summit and State of Ohio, aforesaid, did commit the crime of **TAMPERING WITH EVIDENCE** in that he did, knowing that an official proceeding or investigation is in progress or is about to be or likely to be instituted alter, destroy, conceal or remove any record, document, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation in violation of section 2921.12(A)(1) of the Ohio Revised Code, A FELONY OF THE THIRD DEGREE, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

Sherri Bevan Walsh
SHERRI BEVAN WALSH, Prosecutor/tls
County of Summit, Ohio

Prosecutor, County of Summit, by

s/Brian D. Heim

DATE: 5-16-12

BMR
Grand Jury Foreperson/Deputy Foreperson

A TRUE BILL

I certify this to be a true copy of the original
Daniel M. Horan, Clerk of Courts.

Deputy

COPY

DANIEL M. HOPRIGAN
IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT
2012 DEC 20 AM 10:23

THE STATE OF OHIO

vs.

BRIAN D. HEIM

SUMMIT COUNTY
CLERK OF COURTS

Case No. CR 12 05 1313 31

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JOURNAL ENTRY

On December 17, 2012, the Prosecuting Attorney, ELLIOT KOLKOVICH, on behalf of the State of Ohio, and the Defendant, BRIAN D. HEIM, represented by counsel, MICHAEL J. MAILLIS, appeared before the Court for sentencing. Heretofore on November 28, 2012, the Defendant pled GUILTY to OBSTRUCTING OFFICIAL BUSINESS, as contained in the amended Count 8 of the Indictment, which offense occurred after July 1, 1996, which plea was accepted by the Court, and the Court found the Defendant guilty of the above offense.

The Court inquired of the Defendant if he had anything to say as to why judgment should not be pronounced against him. The Defendant failed to show good and sufficient cause why judgment should not be pronounced.

IT IS HEREBY ORDERED that the Defendant, BRIAN D. HEIM, serve 5 months in either the Summit County Jail or the Summit County Minimum Security Misdemeanant Facility as determined by the Summit County Sheriff's Office for punishment of the crime of OBSTRUCTING OFFICIAL BUSINESS, Ohio Revised Code Section 2921.31, a misdemeanor of the first (1st) degree.

THEREUPON, IT IS THE ORDER OF THIS COURT that imposition of the above sentence be and the same hereby is SUSPENDED and the Defendant placed on non-reporting probation for a period of 1 year upon the following terms and conditions, to-wit:

1. Report to the Adult Probation Department as directed and abide by the rules and regulations of said Department and/or the Adult Parole authority.
2. Refrain from offensive conduct of every nature and obey all laws.
3. Pay a \$20.00 per month fee for services rendered by the Adult Probation Department; said monies to be paid to the Summit County Clerk of Courts, Courthouse, 205 South High Street, Akron, Ohio 44308-1662. The Clerk of Courts shall collect such fees and deposit the monies into the Summit County Probation Services Fund established in the County Treasury.
4. Provide a DNA sample pursuant to Sections 2901.07 and 2152.74 of the Ohio Revised Code.
5. Must surrender his DEA license and his Ohio Board of Pharmacy license.
6. Pay the costs of this prosecution as directed by the Adult Probation Department.

COPY

9

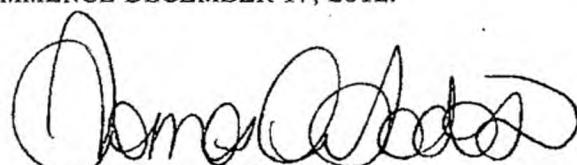
IT IS FURTHER ORDERED that the Summit County Clerk of Courts shall collect monies from the Defendant in the following order of priority: (1) costs and Adult Probation Department fees; (2) restitution, if applicable; and (3) fines, if applicable.

Court costs and probation fee payments, as well as any other financial sanction ordered by the Court, shall be monitored by the Adult Probation Department, who shall report the status of payments directly to the Court.

The Court's order of court costs and probation fee payments, as well as any other financial sanction ordered herein, is based upon the Defendant's present and future ability to pay; and judgment is granted against the Defendant in favor of the County of Summit for the court costs and probation fees. Said monies to be paid to the Summit County Clerk of Courts, Courthouse, 205 South High Street, Akron, Ohio 44308-1662.

SAID NON-REPORTING PROBATION TO COMMENCE DECEMBER 17, 2012.

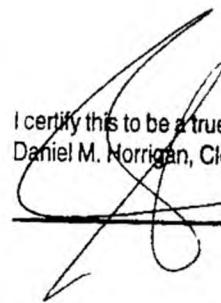
APPROVED:
December 18, 2012
pmw



THOMAS A. TEODOSIO, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Elliot Kolkovich
Attorney Michael J. Maillis
Criminal Assignment
Adult Probation Department

I certify this to be a true copy of the original
Daniel M. Horrigan, Clerk of Courts.



Deputy

COPY

**IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT**

THE STATE OF OHIO
vs.

BRIAN D. HEIM

DANIEL M. HORNIGAN

) Case No. CR 12 05 1313

2012 NOV 30 PM 1:51

SUMMIT COUNTY
CLERK OF COURTS

JOURNAL ENTRY

On November 28, 2012, the Prosecuting Attorney, ELLIOT KOLKOVICH, on behalf of the State of Ohio, and the Defendant, BRIAN D. HEIM, represented by counsel, MICHAEL MAILLIS, appeared before the Court. The Defendant was fully advised of his Constitutional rights and his rights as required under Rule 11 of the Ohio Rules of Criminal Procedure.

IT IS HEREBY ORDERED that, upon Motion of the State of Ohio, Count 8 of the Indictment is amended to the lesser and included offense of OBSTRUCTING OFFICIAL BUSINESS, a misdemeanor of the first (1st) degree. The Defendant, through counsel, agreed to the amendment and waived all defects in the time, manner, or method of service of the amendment.

By plea agreement, the Defendant retracted his plea of Not Guilty and pled GUILTY to OBSTRUCTING OFFICIAL BUSINESS, as contained in the amended Count 8 of the Indictment, Ohio Revised Code Section 2921.31, a misdemeanor of the first (1st) degree, which offense occurred after July 1, 1996. The Defendant's plea, voluntarily made and with a full understanding of the consequences, is accepted by the Court, and the Court finds the Defendant guilty of the above offense.

IT IS FURTHER ORDERED that the charges of AGGRAVATED TRAFFICKING IN DRUGS, as contained in Counts 1, 2, 3, 4, 5, 6, and 7 of the Indictment, herein are DISMISSED.

IT IS FURTHER ORDERED that sentencing in this case is set for December 17, 2012 at 1:00 P.M.

APPROVED:
November 28, 2012
pmw



THOMAS A. TEODOSIO, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Elliot Kolkovich
Attorney Michael Maillis
(Court Reporter, Maxine Roberts)

I certify this to be a true copy of the original
Daniel M. Hornigan, Clerk of Courts.

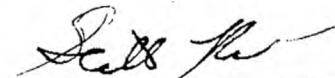
Deputy

OHIO STATE MEDICAL BOARD

JAN 07 2013

CERTIFICATION OF COPIES OF OFFICIAL RECORDS

The undersigned, Scott A. Brinks, states that he has the job title of Diversion Investigator, and that as such, he certifies that the accompanying copy of the official record concerning Brian D. Heim, MD., represents a complete, accurate, and true copy of the original document maintained in the normal and usual course of business by the Drug Enforcement Administration.



Signature of Affiant

12/12/12

Date

Sworn to before me and subscribed in my presence this 12 day of December, 2012 at Madina (city, town, or village) in the County of Madina, in the State of Ohio.



Notary Signature

DAVID M. SMITH
Notary Public, State of Ohio
My Commission Expires 12-31-2013

EXHIBIT

2

OHIO STATE MEDICAL BOARD

JAN 6 7 2013

U. S. Department of Justice - Drug Enforcement Administration

VOLUNTARY SURRENDER OF CONTROLLED
SUBSTANCES PRIVILEGES

DEA USE ONLY

File No.

After being fully advised of my rights, and understanding that I am not required to surrender my controlled substances privileges, I freely execute this document and choose to take the actions described herein.

In view of my alleged failure to comply with the Federal requirements pertaining to controlled substances, and as an indication of my good faith in desiring to remedy any incorrect or unlawful practices on my part;

In view of my desire to terminate handling of controlled substances listed in schedule(s) II-V;

I hereby voluntarily surrender my Drug Enforcement Administration Certificate of Registration, unused order forms, and all my controlled substances listed in schedule(s) II-V as evidence of my agreement to relinquish my privilege to handle controlled substances listed in schedule(s) II-V. Further, I agree and consent that this document shall be authority for the Administrator of the Drug Enforcement Administration to terminate and revoke my registration without an order to show cause, a hearing, or any other proceedings, (and if not all controlled substances privileges are surrendered, be issued a new registration certificate limited to schedule(s) IV-A).

I waive refund of any payments made by me in connection with my registration.

I understand that I will not be permitted to order, manufacture, distribute, possess, dispense, administer, prescribe, or engage in any other controlled substance activities whatever, until such time as I am again properly registered.

NAME OF REGISTRANT (Print)	ADDRESS OF REGISTRANT
Dr Brian Klein MD	3562 Ridge Park Drive Suite A Akron, Ohio 44333
DEA REGISTRATION NO. <u>BH7542283</u>	DATE
SIGNATURE OF REGISTRANT OR AUTHORIZED INDIVIDUAL <u>Brian Klein MD</u>	<u>12-7-12</u>

WITNESSES:

NAME AND DATE <u>Michael J. Mallitt</u>	TITLE <u>Attorney</u>
NAME AND DATE <u>Scott Banks</u>	TITLE <u>DR</u>

PRIVACY ACT

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513).

PURPOSE: Permit voluntary surrender of controlled substances.

ROUTINE USES: The Controlled Substances Act Registration Records produce special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:

- A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- C. Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

EFFECT: Failure to provide the information will have no effect on the individual.

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

(614) 466-3934
med.ohio.gov

February 13, 2013

Case number: 13-CRF-008

Brian D. Heim, M.D.
2901 Ironwood Drive
Akron, Ohio 44312

Dear Doctor Heim:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about November 28, 2012, in the Court of Common Pleas for Summit County, Ohio, you pled guilty to an amended charge of Obstructing Official Business, a misdemeanor of the first degree. Your plea was accepted by the Court and you were found guilty of the offense. On or about December 17, 2012, you were sentenced to five months of imprisonment, all of which were suspended. You were placed on non-reporting probation for one year, and you were ordered to surrender your DEA license and your Ohio Board of Pharmacy license.
- (2) On or about December 7, 2012, you voluntarily surrendered your Drug Enforcement Administration Certificate of Registration [DEA License]. In that same document, you consented to the revocation of your DEA License by the DEA Administrator.

Your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice,” as that clause is used in Section 4731.22(B)(11), Ohio Revised Code.

Further, your plea of guilty or the judicial finding of guilt as alleged in paragraph (1) above constitutes “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding

mailed 2-14-13

To protect and enhance the health and safety of the public through effective medical regulation



Brian D. Heim, M.D.
Page 2

of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude," as that clause is used in Section 4731.22(B)(13), Ohio Revised Code.

Additionally, your acts, conduct, and/or omissions as alleged in paragraph (2) above constitute "[t]he revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice," as that clause is used in Section 4731.22(B)(24), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

J. Craig Strafford MD MPH
J. Craig Strafford, M.D., M.P.H.
Secretary

Brian D. Heim, M.D.
Page 3

JCS/CDP/pev
Enclosures

CERTIFIED MAIL #91 7199 9991 7031 2767 9806
RETURN RECEIPT REQUESTED

CC: Michael J. Maillis
Perantinides & Nolan Co., L.P.A.
300 Courtyard Square
80 South Summit Street
Akron, Ohio 44308-1736

CERTIFIED MAIL #91 7199 9991 7031 2767 9813
RETURN RECEIPT REQUESTED